IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

FRIDAY, THE 16TH NOVEMBER 2007 / 25TH KARTHIKA 1929

CRP.No. 1988 of 2001()

AGAINST THE ORDER DATED 05/07/2001 IN IA. 2339/2001 IN OS.232/1997 of ADDL.MUNSIFF COURT, PALAKKAD
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REVN. PETITIONERS: PETITIONERS/PLAINTIFFS
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1. **GOVINDAN S/O. LATE GOPALAN,**
   ALIKUNNATHU VEEDU, VADASSERI AMSOM
   PALAKKAD DISTRICT.

2. **PARUKUTTY, D/O. LATE GOPALAN,**
   DO. DO.

3. **PADMAVATHY, D/O. LATE GOPALAN,**
   DO. DO.

4. **HARIDAS, S/O. LATE GOPALAN, DO. DO.**

   RESPONDENTS 2 TO 4 RESIDING ALIKUNNATHU VEEDU, VADASSERI, PALAKKAD DISTRICT.

BY ADV. SRI.K.R.RAGHUNATH
SRI.K.P.BALAGOPAL

RESPONDENTS: RESPONDENTS/ DEFENDANTS
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1. **DEVAKI W/O. LATE SIVARAMAN.**

2. **PADMINI D/O. LATE SIVARAMAN.**

3. **JANAKI, D/O. LATE SIVARAMAN.**

4. **KUMARAN, S/O. LATE SIVARAMAN.**

C.R.P. NO. 1988/2001

5. SIVASANKARAN, S/O. LATE SIVARAMAN.

6. VALSALA D/O. LATE SIVARAMAN.

7. UNNULI, W/O. GOPALAN.

ALL THE RESPONDENTS RESIDING AT ALIKUNNATHU VEEDU, VADASSERI AMSOM, PALAKKAD DISTRICT

BY ADV. SRI.N.SUKUMARAN
SRI.S.SHYAM

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 16/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

tss

HARUN-UL-RASHID, J.

C.R.P.No.1988 of 2001-F

Dated: November 16, 2007

ORDER

The revision petitioners are the plaintiffs in O.S.No.232/1997 on the file of the Munsiff's Court, Palakkad. The suit was included in the list on 8.3.2001, the same happened to be dismissed on that day since the plaintiffs did not attend the court. Subsequently I.A.No.1423/2001 was filed under Order IX Rule 13 CPC for restoration. The said I.A. was allowed on condition that the plaintiffs shall pay a sum of Rs.1000/- as costs to the defendant on or before 4.7.2001 and the case was again posted to 5.7.2001 for verification as to whether the order for payment of cost was complied with. On 5.7.2001 it was reported that the costs was not paid and therefore the petition under Order IX Rule 13 CPC stands dismissed. Now the plaintiffs have come before this court against the impugned order passed in I.A.No.1423/2001.

2. The case was not tried for all these years due to the carelessness on the part of the plaintiffs in not complying with the order while the restoration order was passed. The reasons stated for not paying the amount before 4.7.2001 was not accepted by the court and therefore the petition stands dismissed. In the interests of justice I am of the view that an opportunity shall be given to the plaintiffs to conduct the case on merits. Therefore I set aside the impugned order on condition that the petitioners/plaintiffs pay the cost ordered in I.A.No.1423/2001 within a period of three weeks from today. They shall also

pay to the respondents/defendants Rs.2000/- towards the cost in the civil revision petition within the same period. Since the suit is of the year 1997, I further direct the court below to try and dispose of the suit within a period of six months from the date of receipt of a copy of this order.

HARUN-UL-RASHID
JUDGE

mt/-

HARUN-UL-RASHID, JJ.

C.R.P.No.1988 of 2001-F

ORDER

16.11.2007